

*Original co-sponsors of H.R. 3679 include Stark, Grijalva, B. Lee, Ellison, Obey, McDermott, Woolsey*

Washington, DC – Congresswoman Betty McCollum (MN-04) has formally introduced H.R. 3679, the Against Corporations Organizing to Rip-off the Nation Act of 2009 (ACORN Act), which prohibits corporations with a felony conviction from receiving any federal funding.

“It’s time Congress get serious about taxpayer funding of corporate cheats, crooks, and criminals. Last month Congress took action to defund a non-profit serving poor Americans, but failed to act against the corporate crooks that are actually guilty of felonies – including defrauding taxpayers. Why are companies that break the law as a business strategy allowed to receive taxpayer funds? A government contract is a privilege, not a right. If a company commits a felony against the people of the United States, then that privilege must end,” Congresswoman McCollum said.

The ACORN Act is modeled after H.R. 3571 but respects the Constitution by requiring a corporation to be guilty of a felony before federal funds are cut off. The bill:

- Prohibits a corporation with a felony conviction from receiving any federal contracts, grants, or funds in any form for five years after the conviction.
- Prohibits federal employees or contractors from promoting corporate felons for five years.
- Prohibits corporate felons or any applicable individual from contributing to a candidate for federal office, to a political party, or to a federal political action committee for five years.
- Limits the corporation or any applicable individual to no more than \$1 million annually for lobbying Congress or federal officials for a 5 year period.
- Provides presidential waiver authority if federal contracts, grants, and other agreements with corporate felons are determined to be in the national interest.

The text of H.R. 3679, the Against Corporations Organizing to Rip-off the Nation Act of 2009 (ACORN Act), is below.

*Congresswoman Betty McCollum (MN-4) serves on the House Appropriations & Budget Committees.*

*###*

---

111th CONGRESS

1st Session

**H. R. 3679**

To prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote certain corporations or companies guilty of certain felony convictions.

**IN THE HOUSE OF REPRESENTATIVES**

**September 30, 2009**

Ms. MCCOLLUM (for herself, Mr. STARK, Mr. GRIJALVA, Mr. MCDERMOTT, Mr. ELLISON, Ms. LEE of California, Mr. OBEY, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

## **A BILL**

To prohibit the Federal Government from awarding contracts, grants, or other agreements to, providing any other Federal funds to, or engaging in activities that promote certain corporations or companies guilty of certain felony convictions.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the `Against Corporations Organizing to Rip-off the Nation Act' or the `ACORN Act'.

## **SEC. 2. FINDINGS.**

(1) According to the Corporate Fraud Task Force Report to the President, 2008, in fiscal year 2007, United States Attorneys' offices opened 878 new criminal health care fraud investigations involving 1,548 potential defendants. Federal prosecutors had 1,612 health care fraud criminal investigations pending, involving 2,603 potential defendants, and filed criminal charges in 434 cases involving 786 defendants. A total of 560 defendants were convicted for health care fraud-related crimes during the year.

(2) On September 2, 2009, it was announced that Pfizer Inc. and its subsidiary Pharmacia & Upjohn Company Inc., agreed to pay \$2.3 billion, the largest health care fraud settlement in the

history of the Department of Justice, to resolve criminal liability from the illegal promotion of certain pharmaceutical products.

(3) Pharmacia & Upjohn Company agreed to plead guilty to a felony violation of the Federal Food, Drug and Cosmetic Act for misbranding Bextra with the intent to defraud or mislead.

(4) Pharmacia & Upjohn Company marketed `off-label' uses of Bextra for several uses and dosages that the Food and Drug Administration declined to approve due to safety concerns.

(5) The Assistant Attorney General for the Civil Division has stated, `Illegal conduct and fraud by pharmaceutical companies puts the public health at risk, corrupts medical decisions by health care providers, and costs the Government billions of dollars.'

(6) The Director of the Defense Department's Criminal Investigative Services stated, `The off-label promotion of pharmaceutical drugs by Pfizer significantly impacted the integrity of TRICARE, the Department of Defense's health care system. This illegal activity increases patients' costs, threatens their safety and negatively affects the health care services to the over nine million military members, retirees and their families who rely on this system.'

### **SEC. 3. PROHIBITIONS ON FEDERAL FUNDS AND OTHER ACTIVITIES WITH RESPECT TO CERTAIN CORPORATIONS OR COMPANIES.**

(a) Prohibitions- Subject to subsection (e), with respect to any covered corporation or company or applicable individual the following prohibitions apply:

(1) No Federal contract, grant, cooperative agreement, or any other form of agreement (including a memorandum of understanding) may be awarded to or entered into with the corporation or company for a 5-year period beginning 30 days after the date of the criminal conviction involved or termination of charter (as the case may be).

(2) No Federal funds in any other form may be provided to the corporation or company for such 5-year period.

(3) No Federal employee or contractor may promote in any way (including recommending to a person or referring to a person for any purpose) the corporation or company for such 5-year period.

(4) No covered corporation or company or applicable individual may contribute funds to a candidate for Federal office, Federal political action committee, or Federal or State political party during such a 5-year period.

(5) No more than \$1,000,000 in any calendar year may be used by the corporation or company, or applicable individual, for the purpose of lobbying Congress or Federal employees during such 5-year period.

(b) Covered Corporation or Company- In this section, the term 'covered corporation or company' means any of the following:

(1) Any corporation or company guilty of felony criminal violations under any Federal or State law--

(A) including a felony violation of the Federal Food, Drug and Cosmetic Act, sections 3729 through 3733 of title 31, United States Code (formerly known as the False Claims Act), or a violation for the filing of a fraudulent form with any Federal or State regulatory agency; but

(B) excluding a violation for which the corporation or company has fully completed all terms of criminal sentencing or a criminal settlement agreement as of the date of the enactment of this Act.

(2) Any corporation or company that had its State corporate charter terminated due to its failure to comply with Federal or State lobbying disclosure requirements.

(3) Any corporation or company that, within the 5-year period beginning 30 days after the date of conviction of an applicable individual of a violation described in subsection (c)(2)(B)--

(A) employs the applicable individual, in a permanent or temporary capacity;

(B) has under contract or retains the applicable individual; or

(C) has the applicable individual acting on the behalf of the corporation or company or with the express or apparent authority of the corporation or company.

(c) Additional Definitions- In this section:

(1) The term `corporation or company' includes Pfizer, Pharmacia & Upjohn Company Inc. and any Pfizer-related affiliate.

(2) The term `applicable individual' means, with respect to a corporation or company, an individual who--

(A) is a director, officer, or executive of the corporation or company; and

(B) has been found guilty of a felony violation under Federal or State law in relation to the individual's conduct in the individual's capacity as a director, officer, or executive of a corporation or company.

(d) Revision of Federal Acquisition Regulation- The Federal Acquisition Regulation shall be revised to carry out the provisions of this Act relating to contracts.

(e) Presidential Waiver Authority- The President may waive a prohibition in subsection (a) with respect to a corporation, company, or applicable individual if the President--

(1) determines such a waiver is in the national interest; and

(2) provides notice to all appropriate Congressional committees of the intent to grant such

waiver 15 days before the date such waiver is granted.